



**New Mexico Environment Department
Liquid Waste Program
Annual Report
Fiscal Year 2008 (July 1, 2007 to June 30, 2008)**

October 1, 2008



Executive Summary

This report describes the history and current status of the New Mexico Environment Department (“NMED”), Environmental Health Division (“EHD”), Liquid Waste Program (“Program”) and summarizes Program budgets, fee revenues, expenditures, performance and direction.

The Legislature has set three performance measures for the Program:

- percent of new or modified liquid waste systems inspected (currently set at 85%);
- number of free well water tests provided (currently set at 1000); and
- number of compliance orders issued (no set number).

During Fiscal Year 2008 (“FY08”), 90% of new or modified liquid waste systems were inspected, exceeding the performance measure of 85% by 5%. A total of 999 free well water tests were provided, essentially meeting the performance standard of 1000 tests, and 12 Compliance Orders were issued, which is more than for any previous year.

The number of Liquid Waste Permits and Registrations issued is influenced by the rate of new home construction/expansion and property transfers. FY06 saw a peak in liquid waste permits and registrations at 7372; the number declined to 6225 in FY08. The decline in permits issued has resulted in a concurrent decline in fee revenues collected. The Liquid Waste Fund remains solvent, however, and an unobligated fund balance of \$160,700 was carried over from FY08 into FY09. While liquid waste activities consumed approximately 57.8% of staff time for EHD health programs in FY08, liquid waste fee revenues provided only 10.6% of expenditures.

Program accomplishments during FY08 include:

- 5,459 Permits for new or modified systems and 766 Registrations issued;
- 8241 inspections conducted including 4894 inspections of new or modified systems;
- An enforcement initiative, in coordination with the Construction Industries Division of the Regulation and Licensing Department, against unlicensed or improperly licensed contractors;
- Revisions to the Liquid Waste Permit Database improving efficiency for Program personnel and improved service to the public;
- Provision of local training workshops for installers; and
- Issuance of a Division-wide Health and Safety Plan for liquid waste operations, including provision of safety training and personal protection equipment.

During FY09, the Program plans to:

- Complete the Dona Ana County Liquid Waste Assistance pilot project;
- Review fees charged by contiguous states for similar permits and services;
- Impose more stringent requirements for areas in fractured bedrock terrain pursuant to 20.7.3.201.M, NMAC; and
- Revise the program operations manual.

Introduction

The purpose of this report is to describe the history and current status of the Liquid Waste Program, and to present a summary of information that is reported to the five organizations that have constitutional and statutory oversight responsibility for NMED program budgets, fee revenues, expenditures, performance and direction. These organizations are:

1. New Mexico State Legislature, NMSA 1978, § 2-5-4;
2. Office of the Governor, N.M. Const., Art. V, § 9;
3. Department of Finance and Administration, NMSA 1978, § 6-5-1 *et seq*;
4. NMED Administrative Services Division, NMSA 1978, § 9-7A-6.B(1-3); and
5. New Mexico State Auditor, NMSA 1978, § 12-6-3.

This report is also provided to the Environmental Improvement Board pursuant to 20.7.11.14 NMAC.

New Mexico State Legislature

Program budgets are reviewed by the Legislative Finance Committee (“LFC”). NMSA 1978, § 2-5-4. As part of its review process, LFC has set performance measures for the Program. NMED calculates its performance measures on a monthly basis and reports to LFC quarterly.

Office of the Governor

The Program reports its use of public funds to the Governor annually and whenever else the Governor may request. N.M. Const., Art. V, § 9. As part of his review process, the Governor has established a Performance and Accountability Contract for the Program. NMED reports these results to the Governor quarterly. The Governor also requires the preparation of strategic plans to set short term goals for improvement of Program performance.

Department of Finance and Administration (“DFA”)

DFA monitors and reports upon the Program’s budgets and expenditures. NMSA 1978, § 6-5-1 *et seq*. As part of its review process, DFA has required Performance Monitoring Plans for Performance Measures set by LFC. The intent of these Plans is to document the data sources and methodology used to calculate Performance Measures, and to ensure the validity and reliability of the data collected.

NMED Administrative Services Division (“ASD”)

The ASD Budget Bureau is responsible for preparing annual agency budget requests and operating budgets, and acts as the NMED liaison on all budget

related matters. The ASD Budget Bureau also ensures that appropriated budgets are managed in compliance with the appropriation and legislative requirements.

The ASD Financial Services Bureau is responsible for the recognition and reporting of financial, accounting and budget information including expenditure, encumbrance, earned revenue, balance sheet, budget status and fixed asset activities for the Department's Operating and Special Revenue Funds, Federal Grants, General Fund and Special Appropriations.

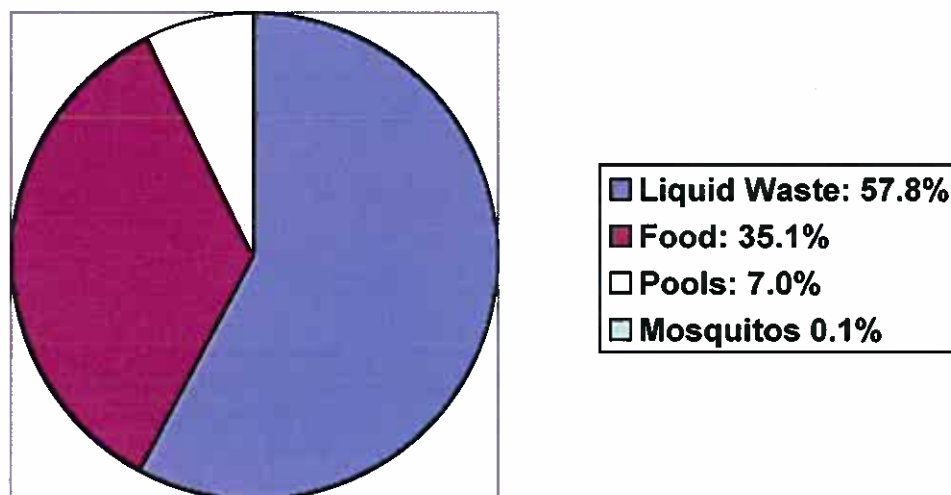
State Auditor

All state agencies are audited each year. NMSA 1978, § 12-6-3. The annual audits are performed by an external auditing company who reports the results to the audited state agency and to the State Auditor.

Program Description

The NMED Environmental Health Division (EHD) administers several health-based programs including liquid waste, food, pools and mosquito abatement. Approximately 57.8 percent of the Work Time Units (WTUs) spent by EHD staff on these four programs was utilized for liquid waste activity during FY08 (Figure 1). WTUs are calculated using the annual count of permitting, inspections and other program activities multiplied by a representative amount of staff time spent on each activity.

Figure 1. EHD Health Programs FY08 Work Time Units.



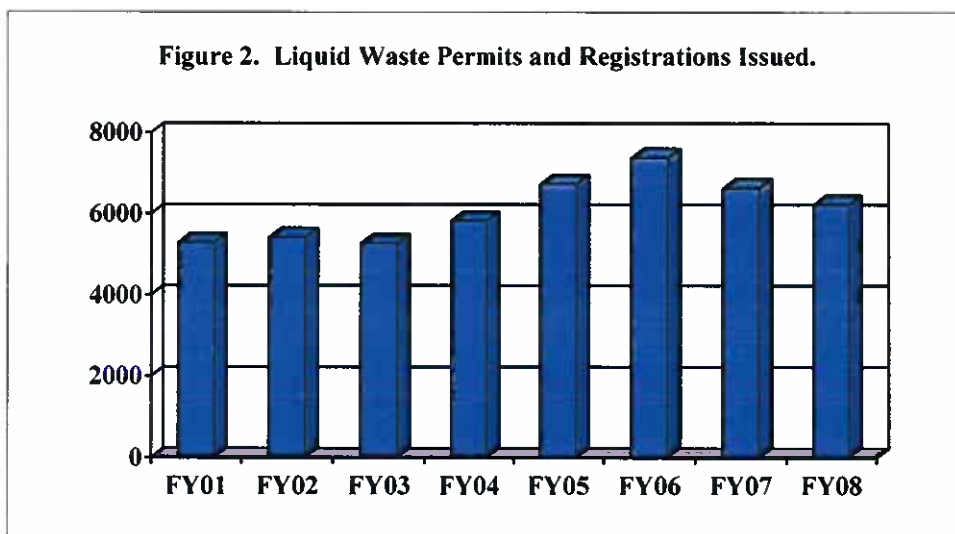
The Liquid Waste Program is responsible for the permitting and inspection of on-site wastewater treatment and disposal systems that are designed to receive and do receive less than 2000 gallons per day of domestic liquid waste. The history of the Program is summarized in Appendix A. The current Program operates under the authority of the Environmental Improvement Act, NMSA 1978, §§ 74-1-1 *et seq*, which created the Environmental Improvement Board (“EIB”) and authorized it to promulgate Liquid Waste Regulations. The EIB has promulgated the Liquid Waste Treatment and Disposal Regulations, 20.7.3 NMAC, and the Liquid Waste Treatment and Disposal Fees Regulations, 20.7.11 NMAC.

The Program is administered by ten core employees (Appendix B) whose duties are primarily liquid waste. Five of the core employees oversee statewide aspects of the Program; the remaining five are assigned to each of the Districts where they provide technical support to homeowners, installers and field office employees. Additionally, forty-five Environmental Scientists along with management and administrative support staff who have duties that include, but are not limited to liquid waste, are stationed in the twenty-two District and Field Offices statewide.

The Liquid Waste Program is funded by three sources:

1. general fund;
2. corrective action fund; and
3. liquid waste fee revenue.

The liquid waste permitting workload over the past eight years is shown in Figure 2. The permit workload increased from FY03 through FY06. Part of this increase was due to the property transfer inspection regulations that became effective on September 1, 2005. As a result of these inspections, numerous un-permitted liquid waste systems were discovered and were either issued registrations or were replaced with modern permitted systems. The number of liquid waste permits and registrations has declined since FY06. We believe this decline is due to reductions in new home construction, home expansions and property transfers related to national economic conditions.



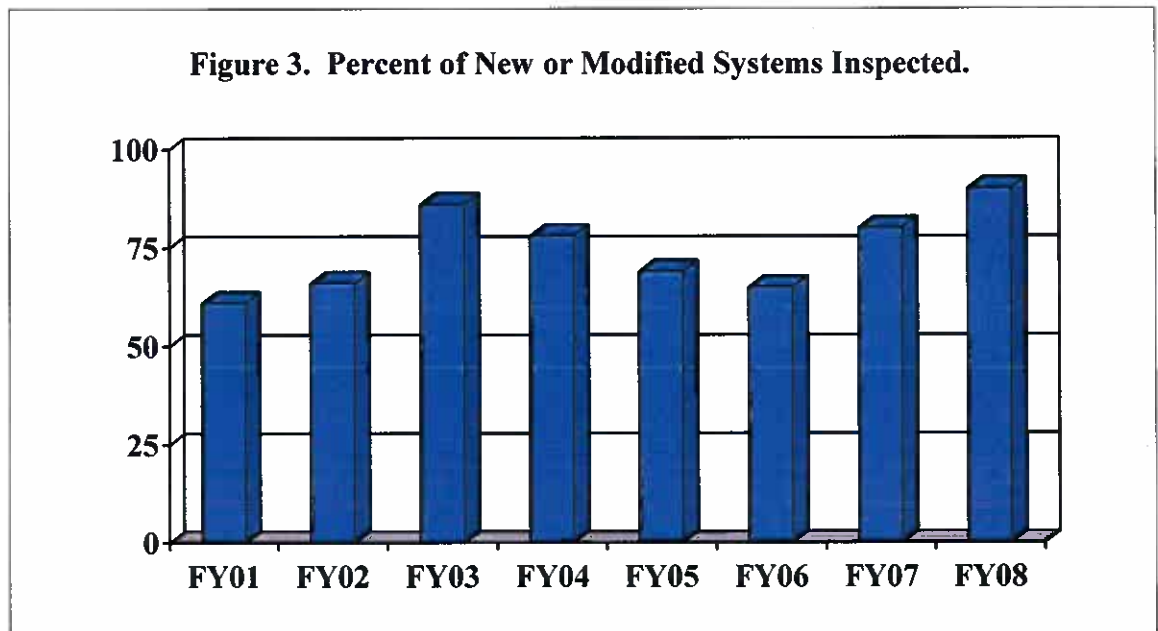
Program Performance Measures

The Legislative Finance Committee and the Office of the Governor have established performance measures for all programs in NMED. The Liquid Waste Program has three performance measures:

1. percent of new or modified liquid waste systems inspected (currently set at 85%);
2. number of free well tests provided (currently set at 1000); and
3. number of compliance orders issued (no set number).

Percent of New or Modified Liquid Waste Systems Inspected

The primary public concern supporting imposition of liquid waste fees was the demand that a higher percentage of systems be inspected by NMED. This concern was raised both before the Legislature and the EIB. In FY01, NMED was only inspecting sixty-one percent of liquid waste system installations and modifications. Increasing the percentage of inspections increases the level of compliance with the Liquid Waste Regulations and provides installers, homebuilders, realtors and homeowners with documentation and a level of comfort that new or modified systems comply with the Regulations. The percentage of inspections (Figure 3), therefore, is a very important measure of Program performance.



After the EIB promulgated the Permit Fee Regulations, NMED created 5 new District Liquid Waste Specialist positions (Appendix B) in its five districts to increase the number of inspections. We believe that the substantial increase in inspections in FY03 (Figure 3) resulted largely from the new district staff positions that were created and filled in FY02 and FY03. The 2007 Legislature

approved a general fund expansion request that created additional Field Office positions whose duties include liquid waste.

During FY08, NMED inspected 90% of new or modified liquid waste systems (Figure 3), an all-time high that exceeded the performance measure of 85% by 5%. We believe that two factors contributed to this high level of performance: the additional general fund positions for NMED Field Offices that were authorized by the 2007 Legislature; and a continuing decrease in permitting workload since the all-time high in FY06 (Figure 2).

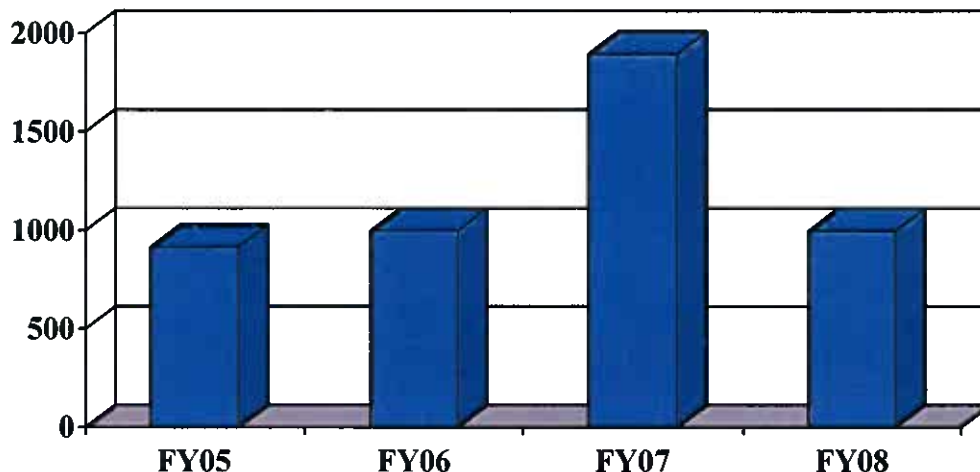
Since 2003, the twenty-two NMED Field Offices have been given a directive to get their inspection percentages as close to 100% as possible. Many offices are at or near 100%. However, since there is typically a lag time between permit approval and system construction, and since some permitted systems are never actually constructed, the performance measure will not reach 100% for any given year based on the current method of calculation approved by LFC and DFA.

Number of Free Well Tests Provided

Free well testing is an important and mutually beneficial service that NMED provides to the public. Unlike public water supply systems, the quality of private domestic well water is not subject to the monitoring requirements and protection of the federal Safe Drinking Water Act and the N.M. Drinking Water Regulations. The free tests conducted by NMED inform domestic well owners about the quality of their drinking water, and provide the Liquid Waste Program with data about ground-water quality statewide. In fact, NMED has discovered many new cases of ground-water pollution through the free well testing program. When polluted wells are discovered, NMED experts counsel the well users and advise them of their options for water treatment, acquisition of alternative water sources or other ways to protect their health and property. Free well testing is available on a walk-in basis at all twenty-two NMED Field Offices statewide, and during Water Fairs that are scheduled throughout the state.

NMED provided 999 free well tests during FY08 (Figure 4), essentially meeting the performance standard of 1000 tests. This performance measure is influenced by the number of Water Fairs NMED offers and on the public's request for testing. For example, in FY07, NMED District 2 staff conducted a large number of Water Fairs, resulting in a high number of free tests.

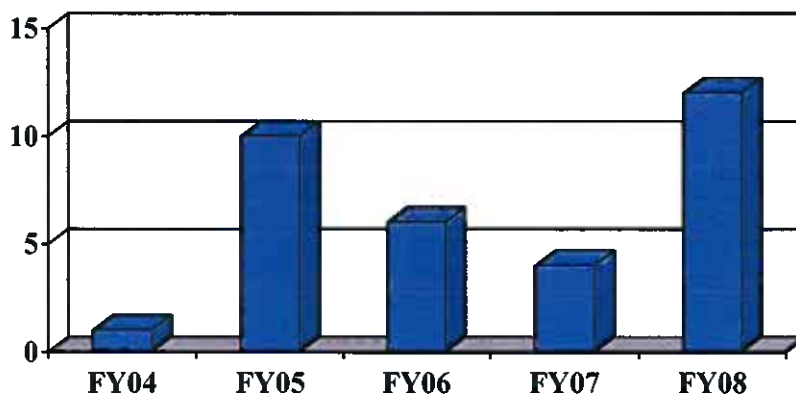
Figure 4. Free Well Water Tests Provided.



Number of Compliance Orders Issued

NMED issues Compliance Orders (COs) to licensed contractors who violate the Liquid Waste Regulations and to property owners for serious violations that are not resolved through requests for voluntary compliance. The first CO in the history of the Program was issued in FY04. Since COs are issued on an as-needed basis, the performance measure does not specify a given number of COs that must be issued each year. In FY08, NMED issued 12 COs (Figure 5), which is more than in any previous year. This increase in COs for FY08 reflects an enforcement initiative that NMED has launched against unlicensed and improperly licensed contractors, in cooperation with parallel enforcement actions by the Construction Industries Division (CID) of the Regulation and Licensing Department.

Figure 5. Compliance Orders Issued.



Liquid Waste Fee Revenues

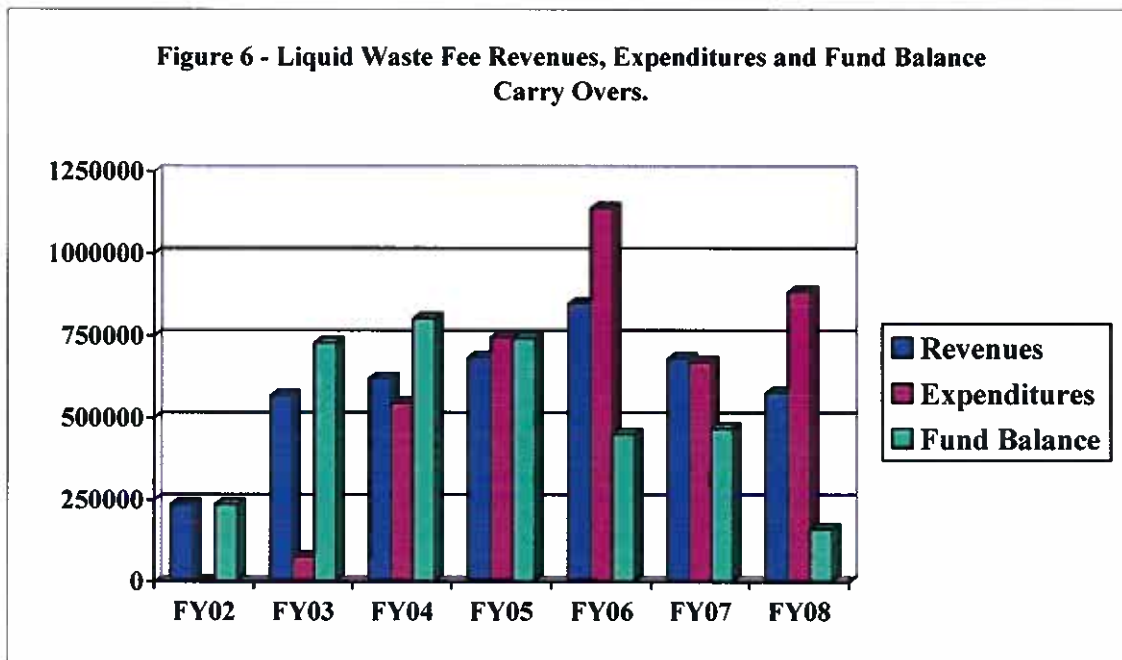
The Legislature amended the Environmental Improvement Act in 2000 to authorize the collection of “on-site liquid waste system fees that are no more than the average charged by the contiguous states to New Mexico for similar permits and services...” NMSA 1978, § 74-1-7.A(3). The EIB promulgated Liquid Waste Treatment and Disposal Fees regulations, 20.7.11 NMAC, which became effective on February 1, 2002.

Liquid Waste Fund revenues, expenditures and end-of-year fund balances carried into the next fiscal year are listed in Table 1 and shown in Figure 6. An unobligated fund balance of \$160,700 was carried over from FY08 into FY09 (Table 1).

Table 1. Liquid Waste Fee Revenues, Expenditures and End-of-Year Fund Balances and Carryover.

Fiscal Year	Revenues Collected	Expenditures	End-of-Year Fund Balance and Carryover (Adjusted*)
FY02	235,900	0	235,900
FY03	567,200	74,900	728,100
FY04	619,700	545,200	802,700
FY05	684,700	744,900	742,400
FY06	847,700	1,139,100	451,000
FY07	680,900	668,500	466,900
FY08	576,800	883,000	160,700

*Actual carryover amounts sometimes differ slightly from the sum of revenues minus expenditures after post-audit adjustments are made to incorporate all revenues collected and all expenditure payments made.



FY08 EHD expenditures for the Liquid Waste, Food and Pool Core Programs and for the twenty-two NMED Field Offices (grouped in the five districts) are listed in Table 2 and illustrated in Figure 7. While liquid waste activities consumed 57.8% of WTUs for EHD health programs in FY08 (Figure 1), liquid waste fee revenues provided only 10.6% of expenditures (Figure 7).

Table 2. FY08 EHD Expenditures for District Offices and Liquid Waste, Food and Pool Core Programs.

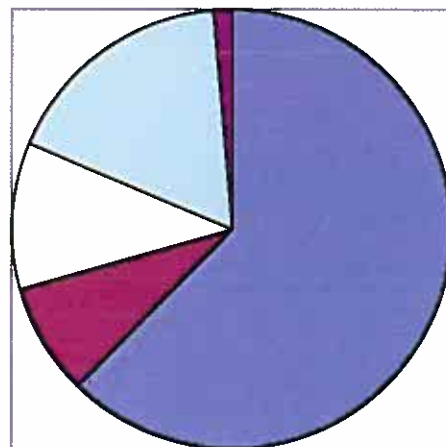
GF – General Fund

CAF – Corrective Action Fund

FY08 Expenditures

	GF	CAF	LW fees	Food fees	Pool Fees	Total
LW Core	\$76,454	\$26,885	\$298,681	\$0	\$0	\$402,020
Food Core	\$0	\$0	\$0	\$235,676	\$0	\$235,676
Pool Core	\$0	\$0	\$0	\$0	\$101,968	\$101,968
D1	\$589,600	\$64,381	\$132,953	\$313,629	\$0	\$1,100,563
D2	\$1,408,031	\$142,901	\$100,764	\$211,869	\$0	\$1,863,565
D3	\$1,069,239	\$185,090	\$77,379	\$156,476	\$0	\$1,488,184
D4	\$1,044,206	\$162,335	\$74,253	\$199,680	\$0	\$1,480,474
D5	\$985,178	\$107,499	\$74,056	\$119,731	\$0	\$1,286,464
Indirect	\$0	\$0	\$121,224	\$197,239	\$18,232	\$336,695
Total	\$5,172,708	\$689,091	\$879,310	\$1,434,300	\$120,200	\$8,295,609

Figure 7. FY08 EHD Health Program Expenditures, \$8,295,609.



■ **General Fund:**
62.4%
 ■ **Corrective Action**
Fund: 8.3%
 □ **Liquid Waste Fees:**
10.6%
 ■ **Food Fees: 17.3%**
 ■ **Pool Fees: 1.4%**

Expenditures from the Liquid Waste Fee Fund during FY08 are categorized in Table 3.

Table 3. FY08 Expenditures for Liquid Waste Fee Fund.

Category	Amount
Salary and Benefits	\$592,781
Contracts	0
Operating Expenses	165,305
Indirect	121,224
Total Expenditures	\$879,310

Program Highlights in FY08

The Liquid Waste Program acquired a new Compliance Officer position. The Compliance Officer has established working contacts within the Construction Industries Division of the Regulation and Licensing Department and has launched an enforcement initiative against unlicensed or improperly licensed contractors. In cases where the requirements of a Compliance Order have not been satisfied, the Compliance Officer has referred the matter to the NMED Office of General Counsel and the first such case has been taken to State District Court.

Substantial revisions were made to the Liquid Waste Permit Database. The database is now capable of tracking the make, model, service provider, maintenance service contract and monitoring data for advanced liquid waste treatment systems. Numerous drop-down lists were incorporated at various locations in the database to streamline data entry and to add uniformity to entries for reporting. NMED continues to enter historical liquid waste permits into the database, working toward the eventual goal of having all permits issued by all offices dating back to 1973 in the database.

NMED proposed a Liquid Waste certification plan and implemented the Liquid Waste Education Steering Committee. Several outstanding legal issues have arisen which must be resolved.

The Liquid Waste Education Steering Committee recommended that a number of curricula be approved for continuing education credit. These curricula include training classes, conferences and workshops.

NMED District employees are hosting periodic local training workshops that have been very well received by the industry. The workshops originated in Ruidoso to address issues with advanced treatment systems and have subsequently been held in other areas of the state to address local issues raised by NMED and the industry.

A Division-wide Health and Safety Plan was issued for liquid waste operations. All employees who perform liquid waste field work were required to complete the 40 hour

HAZWOPER training course, or an 8 hour refresher class, as appropriate. In accordance with the plan, all employees were issued Level D personal protection equipment.

Strategic Plan for FY09

The Liquid Waste Program plans to accomplish the following tasks during FY09:

1. **Liquid Waste Assistance Program pilot project** - In coordination with the Construction Programs Bureau, issue work orders and permits for construction of liquid waste systems for low income households in Dona Ana County that are presently served by substandard systems.
2. **Liquid Waste Training and Certification Program** – Resolve legal issues; propose regulation amendments to EIB, if necessary.
3. **Liquid Waste Fees** – Review fees charged by the contiguous states to New Mexico for similar permits and services in accordance with NMSA 1978, § 74-1-7.A(3) and prepare a written evaluation to the Environmental Improvement Board by April 1, 2009.
4. **More Stringent Requirements for Fractured Bedrock Terrain** - Pursuant to Liquid Waste Regulation 20.7.3.201.M NMAC, impose more stringent requirements for permitting LW systems in fractured bedrock terrain that will adequately protect underlying ground water resources.
5. **Liquid Waste Operations Manual** - Review guidance and policies, updating as needed. Scan these documents as well as historical Liquid Waste Regulations for incorporation into an updated program operations manual.

Appendix A - Liquid Waste Program History

Year	Program Milestone	Description
1937	Regulations Prohibiting Insanitary Toilets in Certain Places	Regulations adopted by the N.M. Board of Public Health (BPH).
1959	Policy for Individual Water Supplies and Sewage Disposal Systems	BPH policy includes first lot size requirements.
1971	Environmental Improvement Act	Provided the statutory authority for the Environmental Improvement Board (EIB) and the Liquid Waste regulations promulgated by the EIB.
1973	Liquid Waste Regulations adopted by EIB	
1979	Amendments to Liquid Waste Regulations	
1985	Amendments to Liquid Waste Regulations	
1989	Amendments to Liquid Waste Regulations	Established ¾ acre minimum lot size, but included “Grandfather” provision for previously platted lots.
1991	Department of Environment Act	Created NMED as a cabinet-level agency.
1997	Amendments to Environmental Improvement Act and Liquid Waste Regulations	Provided NMED with exclusive authority for permitting and inspection of liquid waste systems. Prior to this, NMED and the Construction Industries Division (CID) had dual jurisdiction.
2000	Liquid Waste Permit Fees and Fund	Fees authorized and Fund created by amendment of the Environmental Improvement Act.
2002	Liquid Waste Fees	Permit fees began to be collected.
2003	Technical Advisory Committee (TAC)	TAC created by amendment of the Department of Environment Act.
2003	Amendments to Liquid Waste Regulations	Gray water regulations.
2005	Amendments to Liquid Waste Regulations	Comprehensive re-write of the regulations included sunset of small lot “Grandfather” rule, new requirements for property transfer inspections, professional certification, and standards for advanced treatment.
2007	Amendments to Liquid Waste Regulations	

Appendix B - Liquid Waste Core Program Personnel

Position	Incumbent	Duties	Contact Information
Program Manager	Dennis McQuillan	Overall program management and development, regulation amendments, policy direction, budgets, support to field office staff	NMED Liquid Waste Program 525 Camino de los Marquez Santa Fe, NM 87505 505-476-8607 (desk) 505-660-1592 (cell) dennis.mcquillan@state.nm.us
Program Engineer	Tom Brandt	Engineering review of wastewater treatment and disposal technologies, Technical Advisory Committee coordinator, program webmaster, permit database manger, engineering review	NMED Liquid Waste Program 525 Camino de los Marquez Santa Fe, NM 87505 505-476-8609 (desk) 505-670-3708 (cell) tom.brandt@state.nm.us
Statewide Program Specialist	Brian Schall	Technical support to homeowner, installers and NMED field offices	NMED Liquid Waste Program 5500 San Antonio Dr. NE Albuquerque, NM 87109 505-222-9513 brian.schall@state.nm.us
Compliance Officer	Lourdes Monserrat	Negotiation of voluntary compliance, preparation of Compliance Orders, review of policy and rule making	NMED Liquid Waste Program 525 Camino de los Marquez Santa Fe, NM 87505 505-476-8624 (desk) lourdes.monserrat@state.nm.us
Financial Analyst	Jessica Tapia	Tracking liquid waste fee payments, entry of fee information in financial database	NMED Liquid Waste Program 525 Camino de los Marquez Santa Fe, NM 87505 505-476-8602 (desk) jessica.tapia@state.nm.us
District 1 Program Specialist	Steven Walker	Technical support to homeowner, installers and NMED field offices	NMED Liquid Waste Program 5500 San Antonio Dr. NE Albuquerque, NM 87109 505-222-9546 (desk) 505-362-8860 (cell) steven.walker@state.nm.us
District 2 Program Specialist	James Vincent	Technical support to homeowner, installers and NMED field offices	NMED Liquid Waste Program #4 Calle Medico Santa Fe, NM 87505 505-827-1840 james.vincent@state.nm.us

District 3 Program Specialist	Michael Montoya	Technical support to homeowner, installers and NMED field offices	NMED Liquid Waste Program 1170 S. Solano Dr., Ste. M Las Cruces, NM 88001 575-524-6300 (desk) 575-647-7971 (cell) michael.montoya2@state.nm.us
District 4 Program Specialist	John Wells	Technical support to homeowner, installers and NMED field offices	NMED Liquid Waste Program 1914 W. Second St. Roswell, NM 88201 575-624-6046 (desk) 575-629-9713 (cell) john.wells@state.nm.us
District 5 Program Specialist	David Torres	Technical support to homeowner, installers and NMED field offices	NMED Liquid Waste Program 1000 Main Burroughs Bldg. 16B Los Lunas, NM 87031 505-841-5306 (desk) 505-469-5318 (cell) david.torres@state.nm.us